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## REMARKS

These remarks are responsive to the Office action dated December 16, 2008. Claims 1-16 are pending in the application. Claim 1 has been amended. Support for the amendment to claim 1 may be found in paragraphs 0047-0051. Applicants respectfully request reconsideration of the application and allowance of the pending claims.

Applicants thank the Examiner for his examination of the application. In the office action:

3. Claim 2 is rejected under 35 U.S.C. 102 (b) as being anticipated by US Patent 6,115,057 to Kwoh et al (hereafter referenced as Kwoh).
5. Claims 3-8 and 10-15 are rejected under 35 U.S.C. 102 (e) as being anticipated by US PG Pub 2003/0188316 to DePrez et al (hereafter referenced as DePrez).
7. Claim 1 is rejected under 35 U.S.C. 103 (a) as being unpatentable over US Patent 5,721,829 to Dunn et al (hereafter referenced as Dunn) in view of US PG Pub 2004/0261128 to Fahy et al (hereafter referenced as Fahy).
8. Claims 9 and 16 are rejected under 35 U.S.C. 103 (a) as being unpatentable over DePrez et al in view of Kwoh et al.

**Claim rejection under 35 U.S.C. 103 (a) as being unpatentable over US Patent 5,721,829 to Dunn et al (hereafter referenced as Dunn) in view of US PG Pub 2004/0261128 to Fahy et al**

Claim 1 is a content on demand system that inserts markers into a A/V stream, the markers including position data in the at least one stream. The set top returns one of these position data markers from the stream when the set top box has paused or suspended viewing. Upon a signal from the set top box the system resumes streaming of the audio and/or video stream from a position proximate to the position data indicated by the marker. The applicant has added language to

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the claim to emphasize that the markers that are inserted into the stream comprise position data in the stream. This feature is inherently present, because the markers are returned by the set top box when viewing is paused or suspended, and the system uses the marker to determine a position in the stream from which to resume streaming. The system could not work this way if the markers did not comprise position data in the stream. If the markers did not comprise position data in the stream, the system would not be able to ascertain from the returned marker a position in the stream from which to resume streaming. The applicant hopes that clarifying this feature will help the Examiner appreciate the distinction of the system of claim 1 over the combination of the cited references.

Dunn teaches that when viewing is paused, the system (headend) saves a pause point for the stream in a register. When viewing is resumed, the system streams from this pause point. See Dunn Fig. 4

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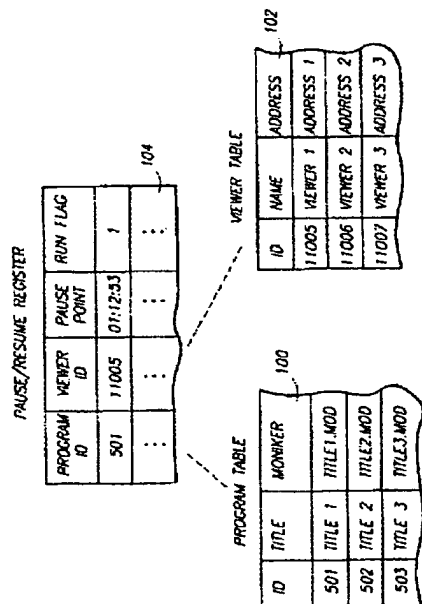


Fig. 4

Fahy teaches a content delivery system in which generic markers in a stream are replaced, at the set top, with inserted content, such as bookmarks or links to web pages. See Fahy Par 25, 38, and Fig. 3

**Fahy para[0025]**

[0025] In a first embodiment, the stream of information 16 is prepared in advance by having the markers added to the program stream at the head-end 14. The markers may also be added before the head-end 14 by the broadcaster 10 or possibly earlier by the producer of the program contents. **A marker identifies points within the stream where the auxiliary contents 34 may be asserted [sic].**

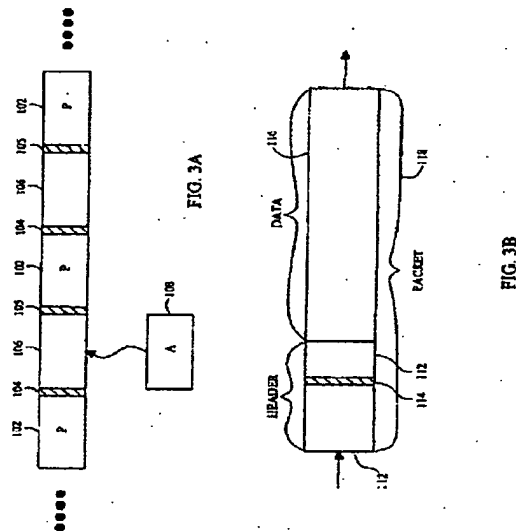
**Fahy para[0038]**

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[0038] In this embodiment, the user through control mechanism 28 can place marks in the stream of information. **For example, the user may wish to insert a bookmark at a location of the program to identify a location that the user wishes to return to later. Or the user may wish to insert a link to a web page at a location of the program.** Other types of auxiliary content may also be inserted by the user into the stream of information. An object such as a bookmark, webpage, or other user-defined object may be part of the auxiliary content 34.

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The rejection of claim 1 under 35 USC 103 fails because the claimed system cannot be built by combining the teachings of Dunn and Fahy. This is true for a number of reasons. First, neither reference teaches logic to receive from a set top box a marker obtained from the stream and comprising position data for an audio and/or video stream for which the set top box has paused or suspended viewing. This feature is simply absent from either reference and cannot properly be "read into" a combination of the features of both. It is certainly not inherent in either reference (nor has the Examiner indicated that it is). The 103 rejection

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thus fails the threshold test of each and every feature of the claims being present in one or both of the references that are combined.

Neither reference teaches that a server system inserts markers comprising position data in the stream. Fahy teaches a server system inserting generic markers that indicate to the set top where to insert aux content. The server of Fahy does not insert any content comprising position data into the stream. The markers inserted by the server in Fahy do not indicate positions in the stream. Each marker merely indicates where content could be inserted. If such a marker were returned to the server by the set top, it would indicate nothing about where in the stream it was extracted from. Rather, it would be up to the set top to insert such data into the marker, not the server.

Thus, the feature of a server system inserting markers comprising position data into the stream is simply absent from either reference. The 103 rejection thus further fails the threshold test of each and every feature of the claims being present in one or both of the references that are combined.

The rejection also fails because the teaching of Dunn would motivate a skilled artisan away from the system of claim 1. This is true because Dunn teaches that the server saves a pause point when the set top signals a pause in the viewing. The server does not receive the pause position from the set top; it makes its own determination of where the pause point is. There is simply no motivation to include in such a system a pause signal from the set top including a position marker in the stream. There is no motivation to incur the overhead of such a signal, because the server already knows the pause point. The set top box signaling with a pause point that is later used to resume streaming is entirely redundant when the pause point is already independently determined at the server and saved in a pause/resume register (see Dunn Fig. 4).

**Claim 2 rejection under 35 U.S.C. 102 (b) as being anticipated by US Patent 6,115,057 to Kwoh et al (hereafter referenced as Kwoh).**

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Claim 2 has been amended to depend from claim 1. Claim 2 is distinguished over Kwoh because Kwoh does not teach many of the features of claim 1 (nor is Kwoh relied upon in the rejection of claim 1). Thus for at least this reason, claim 2 is now distinguished over Kwoh.

**Claims 3 rejection under 35 U.S.C. 102 (e) as being anticipated by US PG Pub 2003/0188316 to DePrez et al (hereafter referenced as DePrez)**

The Applicant believes the arguments submitted in the immediately previous response regarding the differences between DePrez and claim 3 are sound. Furthermore, DePrez does not teach logic to receive the stream and to inhibit/prevent certain rendering/navigation functions in proximity to the advertisements.

Claim feature	DePrez	Differences
logic to deliver at least one audio and/or video stream <u>and to insert markers in the at least one stream, the markers indicating a proximity to advertisements in the at least one stream;</u>	Although this embodiment suggests alternatives or other advertisements when authorization is denied, other embodiments could trigger this advertisement at other times. For example, <u>advertisement could appear when the program is stopped or paused, when there is any delay in performing a</u>	Claim :3 insert markers in the stream indicating the proximity to advertisements in the stream. DePrez: show advertisements when authorization to view the stream is denied, the video program is stopped or paused, or when the signal is unavailable.

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	<p><u>function, when the input signal is unavailable, etc.</u></p> <p>These advertisements could attempt to upsell the user to other products offered by the content provider or could provide advertisements that are not associated with the content provider. [PAR 205]</p>	
<p><u>the markers indicate a restricting condition to inhibit rendering and/or navigation</u> of the audio and/or video stream according to the restricting condition wherein <u>the restricting condition relates to proximity of an advertisement</u> in the audio and/or video stream.</p>	<p>For example, <u>advertisements could appear when the program is stopped or paused, when there is any delay in performing a function, when the input signal is unavailable, etc.</u></p> <p>These advertisements could attempt to upsell the user to other products offered by the content provider or could provide advertisements that are not associated with the content provider. [PAR 205]</p>	<p>Claim 3: the markers indicate a restricting condition to inhibit rendering and/or navigation of the audio and/or video stream in proximity to an advertisement</p> <p>DePrez: show advertisements when authorization to view the stream is denied, the video program is stopped or paused, or when the signal is unavailable. No markers are inserted indicated proximity of advertising in the stream. No markers are inserted indicating a restricting condition to inhibit</p>

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		rendering/navigation in proximity to the advertisement
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**Claims 4-8 and 10-15 rejected under 35 U.S.C. 102 (e) as being anticipated by US PG Pub 2003/0188316 to DePrez et al (hereafter referenced as DePrez).**

The Applicant believes the arguments submitted in the immediately previous response regarding the differences between DePrez and claim 4 are sound. Furthermore, DePrez does not teach a set top box including logic to scan a currently rendering audio and/or video stream for markers; and when one or more markers indicate a restricting condition on a subsection of the stream, inhibiting rendering and/or navigation of the subsection of the audio and/or video stream according to the restricting condition.

Claim feature	DePrez	Differences
a set top box including logic to scan a currently rendering audio and/or video stream for markers; and when one or more markers indicate a restricting condition on a subsection of the stream, inhibiting rendering and/or navigation of the subsection of the audio and/or video stream according to the restricting condition	<b>DePrez Par [0058]</b> In another embodiment, the present invention provides a method for providing a stored program to a user for playback. In one step, a program selection is received from the user. Retrieval of the stored program corresponding to the program selection is initiated. <u>An authorization check for the</u>	Claim 4: a set top box scans a currently rendering stream for markers  DePrez: a stream is provided to a requesting user. Meanwhile an authorization check is made by the server to see if the user is authorized to view the stream.  In DePrez there is no checking by a set top box of markers in the currently rendering stream.



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	<p><u>stored program is also initiated. The stored program is provided to the user whereby viewing may occur. It is determined if the user is authorized to view the stored program after the stored program is provided whereby the user may view the stored program before authorization is determined.</u></p>	
<p>a set top box including logic to scan a currently rendering audio and/or video stream for markers; and <u>when one or more markers indicate a restricting condition on a subsection of the stream, inhibiting rendering and/or navigation of the subsection of the audio and/or video stream according to the restricting condition</u></p>	<p><b>DePrez Par [0091]</b>          At step 712, the subscription program is playing at its previously scheduled time for the user. A notification service, shown generically as step 760, may be implemented automatically by the system to provide information to the user to regarding whether the subscription program is a club program permitting enhanced features for club members.</p>	<p><b>Claim 4:</b>          The set top scans for markers in the stream indicating restricted rendering or navigation. If such a marker is found, the restriction is put into place.</p> <p><b>DePrez:</b>          User commands are provided to control viewing of an entire stored program.</p> <p>DePrez does not teach a set top box scanning a currently rendering stream for markers that affect rendering/navigation of subsections of the stream.</p>

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	<p><u>Additionally, the controller 612 monitors for any of a variety of commands (shown generically as steps 770, 780, and 790) that may be activated by the user and which may be used to provide controlled viewing access to a previously stored club program. The stored club program to which controlled access is granted may be the selection currently being shown in step 712 or may be a different club program, as described below.</u></p>	
<p>a set top box including logic to scan a currently rendering audio and/or video stream for markers; and <u>when one or more markers indicate a restricting condition on a subsection of the stream, inhibiting rendering and/or navigation of the subsection of the audio and/or video stream</u></p>	<p><b>DePrez Par [0092]</b>  <u>If the controller detects entry of one of the commands, it determines in step 770, 780, or step 790, as appropriate, whether or not to authorize playback control of a club program selection. At step 744, the system makes use of that determination</u></p>	<p><b>Claim 4:</b>  The set top scans for markers in the stream indicating restricted rendering or navigation. If such a marker is found, the restriction is put into place.</p> <p><b>DePrez:</b>  User commands are provided to control viewing of an entire stored program. If viewing is not authorized, the user is shown a</p>

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<u>according to the restricting condition</u>	<u>either to grant the user playback control at step 724 or, in some embodiments, to decide whether to show promotional information at step 746.</u> If a decision is made to show such information, the promotional feature is presented to the user at step 748. Such a promotional feature may include information describing the enhanced benefits of club membership, the additional cost of club membership, and any other relevant information such as special promotional rates.	promotion.  DePrez does not teach a set top box scanning a currently rendering stream for markers that affect rendering/navigation of subsections of the stream.
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**Claims 5-8 and 10-15 rejected under 35 U.S.C. 102 (e) as being anticipated by US PG Pub 2003/0188316 to DePrez et al (hereafter referenced as DePrez); Claims 9 and 16 are rejected under 35 U.S.C. 103 (a) as being unpatentable over DePrez et al in view of Kwoh et al.**

DePrez fails to teach features of the base claim (claim 4) of these dependent claims. Regarding claims 9 and 16, Kwoh does not cure this lack. For at least these reasons, claims 5-16 are distinct over DePrez or the combination of DePrez and Kwoh. Furthermore, DePrez fails to teach features of the dependent

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claims. For example, DePrez fails to teach a set top box scanning for markers in a stream and implementing restrictions on rendering or navigation as follows:  
wherein the restricting condition further comprises proximity of an end of the audio and/or video stream (claims 5, 12);  
wherein the restricting condition further comprises proximity of an advertisement in the audio and/or video stream (claims 6, 13);  
wherein the restricting condition further comprises a rating of content of the audio and/or video stream (claims 7, 14);  
logic to inhibit at least one of fast forward, rewind, pausing, skipping, or playing of the audio and/or video stream according to a marker in the stream (claims 8, 15);  
logic to terminate rendering of the audio and/or video stream when an insufficient number of markers are detected within a time interval (claim 10);  
logic to enable rendering and/or navigation of the audio and/or video stream when a marker indicating an end to the restricting condition is encountered in the audio and/or video stream (claim 11).

In the event the Examiner maintains the rejection of these claims over DePrez, the Applicant will traverse in more detail in the next response in anticipation of appeal.

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**Conclusion**

In view of the above amendments and remarks, the Applicant believes that this application is now in condition for allowance. The Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

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